

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**V.**

**LAWRENCE DONERSON,**

**Defendant.**

**CASE NO: 1:12 CR 589**

## Judge Dan Aaron Polster

## **OPINION AND ORDER**

Before the Court is Defendant Lawrence Donerson's Motion for Sentence Reduction ([ECF Doc. 382](#)) and his Supplemental Motion for Compassionate Release. [ECF Doc. 392](#). For the following reasons, Donerson's Motions are **DENIED**.

## I. Background

On January 24, 2014, Donerson pleaded guilty to conspiracy to possess with intent to distribute cocaine. [ECF Doc. 237 at 1](#). He was sentenced to 151 months incarceration, along with three-years supervised release, on December 11, 2014. [ECF Doc. 237 at 2-3](#). Donerson is currently being held at Federal Correctional Institution (“FCI”) Terminal Island and has an expected release date of August 23, 2023.<sup>1</sup>

On September 24, 2020, Donerson filed his Motion for Sentence Reduction. [ECF Doc. 382](#). The Court appointed a Federal Public Defender who then filed a Supplemental Motion for Compassionate Release on December 6, 2020. [ECF Doc. 392](#). On December 22, 2020, the United States of America filed a response in opposition. [ECF Doc. 397](#).

<sup>1</sup> Federal Bureau of Prisons Inmate Search as of January 27, 2021.

## **II. Discussion**

### **A. Exhaustion**

The statute authorizing compassionate release, [18 U.S.C. § 3582\(c\)\(1\)](#), dictates that a defendant must first petition the Bureau of Prisons to bring a motion for compassionate release on his or her behalf. [18 U.S.C. § 3582\(c\)\(1\)](#). Only after exhausting all possible administrative avenues to appeal a failure of the Bureau of Prisons to bring such a motion, “or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier . . . .”, may a defendant file a motion for compassionate release with a court. [18 U.S.C. § 3582\(c\)\(1\)\(A\)](#).

Here, Donerson has met the exhaustion requirement. Donerson submitted a request for sentence reduction on July 23, 2020 to Warden Ponce. [ECF Doc. 382 at 3](#). Warden Ponce denied this request on August 12, 2020. *Id.* Upon denial, Donerson waited more than 30 days to file his motion for sentence reduction with the Court. [ECF Doc. 382 at 1](#).

### **B. Merits**

For a court to grant a sentence reduction under [§ 3582\(c\)\(1\)\(A\)](#), several requirements must be met when the defendant is younger than 70 years old. [§ 3582\(c\)\(1\)\(A\)](#). First, a court must find “extraordinary and compelling reasons warrant such a reduction.” [§ 3582\(c\)\(1\)\(A\)\(i\)](#). Second, a court must find “the defendant is not a danger to the safety of any other person or the community.” *United States v. Hardin*, Case No. 1:19 CR 240, [2020 U.S. Dist. LEXIS 90855](#), at \*5 (N.D. Ohio Apr. 7, 2020). Third, a court must deem the reduction appropriate upon consideration of the sentencing factors in [18 U.S.C. § 3553\(a\)](#). *Id.*

In consideration of the first requirement, Donerson has identified two “extraordinary and compelling” reasons for sentence reduction, given his documented medical conditions of obesity

and asthma. [ECF Doc. 392 at 3](#). The Centers for Disease Control and Prevention (“CDC”) has developed two categories of medical conditions that lead to the likelihood of severe outcomes from COVID-19. The first category identifies factors that “definitely” involve greater risk of severe illness. When one of these factors is present, a defendant’s ability to provide self-care within the environment of a correctional facility is substantially diminished. [ECF Doc. 397 at 5](#). Obesity is a medical risk factor listed in the CDC’s first category. The second CDC category identifies medical risk factors that “might” involve greater risk of severe COVID-19 outcomes. Asthma is included in this second category. Here, the government concedes that Donerson is obese, and that this constitutes an “extraordinary and compelling” medical condition. [ECF Doc. 397 at 7](#). The government also concedes that Donerson has asthma. *Id.* However, according to his medical records, Donerson was diagnosed with COVID-19 in May 2020 but has since recovered and tested negative. *Id.* The records do not indicate that Donerson’s obesity or asthma led to more severe symptoms of COVID-19. [ECF Doc. 397 at 8](#). Further, the records do not indicate that Donerson suffered any documented symptoms of COVID-19. *Id.*

Even if Donerson’s obesity and asthma constitute “extraordinary and compelling” reasons for sentence modification, a sentence reduction is inappropriate. Donerson has failed to show that he no longer poses a danger to the community. Further, a sentence modification is inappropriate considering the sentencing factors in [18 U.S.C. § 3553\(a\)](#). When sentencing a defendant, the court already considers the § 3553(a) factors. A motion for compassionate release prompts the court to consider whether to weigh the factors differently due to a change in circumstances. [18 U.S.C. § 3553\(a\)](#) lists the seven sentencing factors the Court must consider:

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed . . . .;

- (3) the kinds of sentences available;
- (4) the kinds of sentence and the sentencing range . . . .;
- (5) any pertinent policy statement . . . .;
- (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and
- (7) the need to provide restitution to any victims of the offense.

[18 U.S.C. § 3553\(a\)](#). In general, the factors favor release if a high-risk defendant has less than a year of his or her sentence remaining and is held in a correctional facility with a severe COVID-19 outbreak. *Hardin*, Case No. 1:19 CR 240, [2020 U.S. Dist. LEXIS 90855](#), at 10.

Here, Donerson has over two and a half years remaining on his sentence, which was imposed for a serious crime. Further, while FCI Terminal Island had a severe COVID-19 outbreak earlier in 2020, at present there are only a handful of cases. [ECF Doc. 397 at 2](#). Donerson was involved in at least four multi-kilogram shipments of cocaine to Cleveland. His lengthy prior criminal record indicates multiple violence and drug offenses, qualifying him as a career offender. Because the § 3553(a) factors do not support granting compassionate release, his motions are DENIED.

### **III. Conclusion**

For the above reasons, Donerson's Motion for Sentence Reduction ([ECF Doc. 382](#)) and his Supplemental Motion for Compassionate Release ([ECF Doc. 392](#)) are hereby **DENIED**.

**IT IS SO ORDERED.**

/s/ Dan Aaron Polster  
**Dan Aaron Polster**  
**United States District Judge**